

**FRANKLIN TOWNSHIP  
BOARD OF SUPERVISORS MINUTES  
FEBRUARY 21, 2007**

**Call to Order:**

Chairperson Juanita Bennett called the meeting to order at 7:03 p.m. Present were Supervisors Norman Hughes, Roger Wilson and Richard Whipple. Teddy Price arrived at 7:13 p.m. Also present were Solicitor Mark Thompson, Planning Commission Chairman Eric Brindle, Township Engineer Grant Hitchens, Traffic Engineer Al Federico, Sanitary Sewer Engineer Stan Corbett and Interim Township Manager Stephen Ross. There were approximately 13 members of the public in attendance.

**Public Comment:** No public comment

**Approval of Minutes:**

- a. BOS Organization Meeting – January 2, 2007: These minutes were previously approved at the January 17, 2007 meeting with various corrections. Mr. Ross was seeking validation from the Board relative to the correctness of the changes made. Motion by Mr. Hughes, seconded by Mr. Wilson, to approve the Minutes of the January 2, 2007 meeting subject to the following changes: Page 1, 3<sup>rd</sup> para., 3<sup>rd</sup> line, remove “declined the” and add “...indicated that he would vote against the nomination...”. Page 2, #5, under “Engineers” correct the spelling of “McCormack” to “McCormick”. Motion carried by a vote of 4-0.
- b. BOS Workshop Meeting – January 10, 2007: On motion by Mr. Wilson, seconded by Mr. Hughes, the Minutes of the January 10, 2007 Meeting were approved with the addition of a period after the last sentence under “Field Use – Crossan Park”, page 3. Motion carried by a vote of 4-0.
- c. BOS Regular Meeting – January 17, 2007: On motion by Mr. Wilson, seconded by Mr. Hughes, the Minutes of the January 17, 2007 Meeting were approved with the following addition on page 3, “Fire Hydrant Tax”, add the following sentence before “Motion carried...”: “Ms. Price offered her opinion that the fire hydrant tax could possibly reduce the homeowners insurance premium.” Motion carried by a vote of 4-0.

**Reports:**

- a. Treasurer’s Report – January 31, 2007: Mr. Ross provided a summary of the fund balances including a month end balance of \$1,436,827.46. On motion by Mr. Wilson, seconded by Mr. Hughes, the Treasurer’s Report for the month of January, 2007 was accepted as presented. In response to a question from Mr. Wilson, Mr. Ross stated that he did not know how this compared to the same period last year but would provide that data if the Board wanted it. Motion carried by a vote of 4-0.

- b. Manager's Monthly Report: Mr. Ross summarized the monthly report highlighting certain items as follows: The review and audit of financial records for 2006 by Barbacane Thornton; the 2007 Real Estate Tax Bills recently mailed by Berkheimer and Associates; the County Commissioners and County Planning Commission personnel regarding "Landscapes II" attended by Mr. Whipple, Ms. Price and the manager; Mr. Ross advised that the public can access and participate in a survey on the county website; "Vision 2007" featuring various Township programs with timelines that will be undertaken in the coming year; Mr. Ross agreed that preparation of various ordinances, specifically one regarding installation of drip fields in open space, will be included in the "Vision 2007" monthly report; status of preliminary plans for the Crossan Park improvements; the winter newsletter; and, the excellent job done by Jeff Eastburn regarding the coordination of snow removal from Township roads during the months of January and early February.
- c. Solicitor's Report: Mr. Thompson had nothing to report.
- d. Zoning Officer/Building Inspector Report: Mr. Ross presented the monthly report on behalf of Mr. Brady. Said report included a summary of 11 permits issued including receipt of \$9,709. The report included a listing of building inspections with a description, zoning tasks handled, and activity related to the HARB.

**Old Business:**

- a. Resolution 2007-02 – Realty Transfer Tax Ordinance Amending Ordinance 86-07: Mr. Ross provided a brief background on the necessity of having the Board approve the Ordinance. The Ordinance authorizes the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect, and enforce the Township's Realty Transfer Tax. It provides for establishing interest rates and penalties as well as miscellaneous rules and regulations. Mr. Thompson, Township Solicitor, opened the hearing on the Ordinance by introducing the following exhibits: Exhibit T-1, the proposed Ordinance; Exhibit T-2, a letter from Vince Pompo to the Daily Local News dated January 22, 2007 which represents Proof of Publication; and Exhibit T-3, a copy of the public notice for the Ordinance which was published in the Daily Local News. There was no public comment or questions from the Board. The hearing on the Ordinance was closed. On motion by Mr. Whipple, seconded by Mr. Hughes, the Board approved Ordinance Number 2007-02 as presented. Motion carried by a vote of 5-0.
- b. Resolution 2007-05 – Agricultural Security Area (ASA): The Resolution, duly authorized by the Board in an e-mail on February 14th (the 2/14/2007 BOS meeting was cancelled due to snow) was presented for ratification by the Board of Supervisors at this meeting. The signed Resolution was forwarded to the Pennsylvania Agricultural Council on February 15, 2007. The Resolution would amend the ASA by adding the following tax parcels to the listing:

**APPROVED**

McCleary	72-1-36	4 acres
McCleary	72-4-1	80 acres
McCleary	72-4-1.03	18 acres
McCleary	72-4-5	3 acres
Palmer, Nancy A.	72-7-16	41.3 acres
Pierson, William D.	72-2-50.4	39.3 acres
Strawbridge	72-6-1	14.4 acres
Strawbridge, George	72-6-4	370.10 acres
Strawbridge, George	72-6-10	63.5 acres
Strawbridge, George	72-6-14	270.10 acres
Strawbridge, George	72-7-11	13.6 acres

On motion by Mr. Whipple, seconded by Mr. Hughes, Resolution 2007-05 was approved and ratified. Motion carried by a vote of 5-0.

**Planning and Zoning:**

- a. Planning Commission Report – February 1, 2007: Mr. Eric Brindle provided a report of the activities of the Planning Commission at their meeting of February 1, 2007. The only plan reviewed was the Megill Homes/Matsen plan. Mr. Brindle indicated that the Planning Commission advised the developer to consider alternative plans for the property.
- b. Resolution 2007-06 – Godfrey Planning Module: Mr. Corbett provided input on the need to approve the Planning Module, explaining that the replacement area on Lot 2 has been relocated in its entirety and all the sewage systems, primary and replacement for both houses, are now acceptable. A proposed Resolution (DEP Land Planning Module form) identified as 2007-06 – Godfrey Planning Module, was approved on motion by Mr. Whipple, seconded by Mr. Hughes. Motion carried by a vote of 5-0.
- c. Banffshire Final Plan Execution: Mr. Ross explained that the final plan was conditionally approved on November 15, 2006 and the plan being proposed for signature was revised based on that approval. Subsequently, Kohli and Associates reviewed the plan and found everything to be acceptable including the construction cost estimate. Solicitor Thompson presented a list of conditions as noted in a draft of a letter from the Township to the applicant. If the Board agrees to accept the Plan for execution, contingent upon meeting the stated conditions, the draft letter will be formalized and sent to the applicant. Before the Plan can be released to Wilkinson Builders for recording, the conditions, as outlined in a draft letter must be met. The draft letter is provided in the meeting file.

Attorney Jack Wuerstle, representing Wilkinson Builders, stated that the applicant is agreeable with the above conditions. Mr. Wuerstle proposed that the applicant will add the “Note” to the Plan, meet the other conditions stated above, and resubmit the modified Plan to the Township for execution by the supervisors. The Plan would

then be held by the Township until the financial security is posted at which time the Plan will be released for recording.

The Manager noted that a memorandum was received from the Brandywine Conservancy (BC) dated January 25 advising that the applicant has satisfactorily addressed the comments issued in their letter of October 13, 2006. However, BC submitted final comments regarding Rare Species, Reforestation Areas, and Stormwater Management. Mr. Wuerstle stated that the letter from BC post-dates the Stipulation and in addition it is the applicant's opinion that the issues raised are not substantive in terms of assurances to the Township. Therefore the applicant believes they have met all conditions. A motion to accept the Plan for execution by the supervisors, subject to the conditions listed in the draft letter and re-stated above, was made by Mr. Whipple, seconded Mr. Hughes. Motion carried by a vote of 5-0.

d. HARB Certificate of Appropriateness (COA) Project Applications: The following applications have been submitted for the Board of Supervisors to consider as it relates to the Certificates of Appropriateness:

1. Ed DeStafney, 103 Walker Road, roofing of out-building.
2. David Kidder, 3308 Appleton Rd., added slider doors to the garage.
3. Samuel Steward, 3313 Appleton Road, removing shingles and slate from roof and replacing with architectural fiberglass shingles.

On motion by Mr. Whipple, seconded by Mrs. Bennett, the Board approved the recommendation of the HARB and granted the Certificates of Appropriateness for Ed DeStafney, David Kidder and Samuel Steward. Motion carried by a vote of 5-0.

e. Escrow Release – Franklin Chase \$151,709.15: The applicant requested that an amount of \$167,283.35 be released from the escrow account. Kohli and Associates, Inc. reviewed the request and recommended that \$151,709.15 be released. Grant Hitchens, Township Engineer, explained the reasons for the reduction. On motion by Mr. Whipple, seconded by Mrs. Bennett, the release of \$151,709.15 from the Franklin Chase Escrow Fund was approved. Motion carried by a vote of 5-0.

f. Extension Request – Woods Edge Subdivision April 18, 2007: Mr. Robert D. Smiley, representing GenTerra Real Estate Development Company presented a letter dated January 30, 2007 requesting an extension of the final subdivision plan from February 21, 2007 to April 18, 2007. On motion by Mr. Whipple, seconded by Mr. Hughes, consideration of the final plan was extended to April 18, 2007. Motion carried by a vote of 5-0.

**New Business:**

- a. Insinga – Zoning Hearing Board(ZHB): Mr. Jack Wuerstle was present on behalf of Wilkinson Builders and explained that, in addition to requesting an extension, the applicant is considering applying to the ZHB for three variances. He presented the 2005 Plan from the easel, highlighting the benefits this Plan offers the Township and the hardships faced by the developer in attempting to comply with the Township's Ordinance in the areas of steep slopes, riparian buffers and drywells and asked for the support of the Board if the applicant goes before the ZHB.

The benefits to the Township include: The elimination of access through Kemblesville West or from Appleton Road, made possible by the acquisition of the Wilson property; the reduced density from 7 houses on 40,000 sq. ft. lots to 4 houses on 60,000 sq. ft. lots; the opportunity to up-grade the intersection of Peacedale and Franklin Roads; the elimination of a property line encroachment issue in the village which will be fixed as part of the process; the compatibility of 4 new houses with the abutting residential usage on three and one half sides of the parcel; repairs to the existing historic property on the parcel; and Mr. Wilkinson's commitment to carry through with the plan (re Mr.Wuerstle, "You have a feeling for what Wilkinson builds, you know the property is not going to go to another party")

Mr. Wuerstle asked Mr. Barry Stingel, Hillcrest Associates, to elaborate on the hardships which support the need for relief from the ZHB.

Mr. Stingel presented plans from the easel to help the Board visualize the need for two of the three variances, i.e., steep slopes and riparian buffer encroachment. He explained the amount of precautionary slope that is allowed to be disturbed and the percentage by which the applicant expects to exceed that allowance. He stated the amount of zone 2 riparian buffer disturbance that is allowed by the Ordinance and indicated on the plan the amount and location of the expected overage. He emphasized the uniqueness of this parcel, its long rectangular shape and the topographical features which make this preferred plan a hardship to accomplish without the requested relief.

The third variance is related to the requirement for dry wells to accommodate stormwater drainage from the roofs of all structures. Mr. Stingel explained that the soils on the site are not generally conducive to infiltration and explained the BMP stormwater management method the applicant is proposing to deal with the issue.

Mr. Whipple moved, seconded by Mr. Hughes, that if the applicant goes before the ZHB, the Township Solicitor will appear on behalf of the BOS to support the applicant's application.

Concerns were expressed by Mr. Wilson regarding the possibility that the ZHB might feel pressured by the Board's support of the applicant's requests for variances and the fact that the request for a variance from the drywell requirement, should it be granted, might set a precedent for future developers. Mr. Whipple indicated it was his understanding that it was common and acceptable practice for a BOS to be

represented at a ZHB, in support of, or opposed to, a given application. The ZHB then takes this input into consideration, along with all other testimony and input from other parties who express an opinion at the ZHB meeting. Ms. Price indicates that, regarding precedence, each situation is viewed in the context of the specific facts and circumstances. Mr. Wilson asked for further information regarding the quality and the amount of the recharge using the applicant's proposed approach vs. using drywells.

The motion carried by a vote of 4-1 with Mr. Wilson voting nay.

Insinga – Extension: Mr. Wuerstle explained the reasons the applicant is requesting an extension.

On motion by Ms. Price, seconded by Mr. Hughes, the Board accepted the requested extension of the Insinga Conditional Use Decision to May 16, 2008. Motion carried by a vote of 5-0.

- b. Open Space – Trail Feasibility Study: Mr. Ross summarized the recommendation of the Consultant Selection Committee which included Mr. Whipple, Mr. Geoghegan and himself. The Committee recommended to the Board of Supervisors that the firm of Ray Ott and Associates be selected to perform the Trail Feasibility Study at a cost of \$37,930, covered in part by grants from PECO and DCNR. Mr. Whipple moved, seconded by Mr. Wilson, to approve Ray Ott & Associates to perform the Trail Feasibility Study. Motion carried by a vote of 4-0 with Ms. Price abstaining because of her employment with Brandywine Conservancy which is a sub-contractor in this study.
- c. Road Maintenance Program: Mr. Ross provided background information on the proposed Road Maintenance Program. A Request for Proposal (RFP) was prepared to engage a traffic engineer to assist the Township in determining the treatment of roads. The program would require the consultant to evaluate and document all of the Township roads and to develop a priority list and the type of treatment that should be considered for the future. McCormick Taylor, at a cost of \$28,140, was recommended to perform the study and provide the Township with a recommendation for the immediate and long term (8-10 yrs.) road maintenance and road improvement needs of the Township. Mr. Al Federico was present and explained the process that McCormick will use in conducting the study and answered the questions of the Board and the public. Mr. Hoffman, resident and member of the PC, asked questions regarding the total cost of the study and whether the Township would be in a position financially to implement the recommendations that may come from the study. The source of funds was discussed, i.e., the impact fees and liquid fuels and how these funds are regulated.

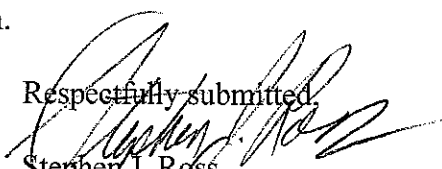
Mr. Whipple moved, seconded by Mr. Hughes, to engage McCormick Taylor to conduct the study at a cost of \$28,140. Motion carried by a vote of 5-0.

Public Comment: No public comment.

APPROVED

**Adjourn:** The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

  
Stephen J. Ross

Township Mgr./Secretary

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